

§ 3.405

circumstances affecting the national bank's or Federal savings association's capital adequacy or its ability to reach the required minimum capital ratios by the specified date, the national bank or Federal savings association may propose to the OCC, or the OCC may propose to the national bank or Federal savings association, a change in the minimum capital ratios for the national bank or Federal savings association, the date when the minimums must be achieved, or the national bank's or Federal savings association's plan (if applicable). The OCC may decline to consider proposals that are not based on a significant change in circumstances or are repetitive or frivolous. Pending a decision on reconsideration, the OCC's original decision and any plan required under that decision shall continue in full force and effect.

§ 3.405 Relation to other actions.

In lieu of, or in addition to, the procedures in this subpart, the required minimum capital ratios for a national bank or Federal savings association may be established or revised through a written agreement or cease and desist proceedings under 12 U.S.C. 1818 (b) or (c) (12 CFR 19.0 through 19.21 for national banks and 12 CFR part 109 for Federal savings associations) or as a condition for approval of an application.

Subpart I—Enforcement

SOURCE: 78 FR 62269, Oct. 11, 2013, unless otherwise noted.

§ 3.501 Remedies.

A national bank or Federal savings association that does not have or maintain the minimum capital ratios applicable to it, whether required in subpart B of this part, in a decision pursuant to subpart H of this part, in a written agreement or temporary or final order under 12 U.S.C. 1818 (b) or (c), or in a condition for approval of an application, or a national bank or Federal savings association that has failed to submit or comply with an acceptable plan to attain those ratios, will be subject to such administrative action or sanctions as the OCC considers appropriate. These sanctions may include the

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issuance of a Directive pursuant to subpart J of this part or other enforcement action, assessment of civil money penalties, and/or the denial, conditioning, or revocation of applications. A national bank's or Federal savings association's failure to achieve or maintain minimum capital ratios in subpart B of this part may also be the basis for an action by the Federal Deposit Insurance Corporation to terminate Federal deposit insurance. See 12 CFR part 308, subpart F.

Subpart J—Issuance of a Directive

SOURCE: 78 FR 62269, Oct. 11, 2013, unless otherwise noted.

§ 3.601 Purpose and scope.

(a) This subpart is applicable to proceedings by the OCC to issue a directive under 12 U.S.C. 3907(b)(2) or 12 U.S.C. 1464(s), as appropriate. A directive is an order issued to a national bank or Federal savings association that does not have or maintain capital at or above the minimum ratios set forth in subpart B of this part, or established for the national bank or Federal savings association under subpart H of this part, by a written agreement under 12 U.S.C. 1818(b), or as a condition for approval of an application. A directive may order the national bank or Federal savings association to:

(1) Achieve the minimum capital ratios applicable to it by a specified date;

(2) Adhere to a previously submitted plan to achieve the applicable capital ratios;

(3) Submit and adhere to a plan acceptable to the OCC describing the means and time schedule by which the national bank or Federal savings association shall achieve the applicable capital ratios;

(4) Take other action, such as reduction of assets or the rate of growth of assets, or restrictions on the payment of dividends, to achieve the applicable capital ratios; or

(5) A combination of any of these or similar actions.

(b) A directive issued under this rule, including a plan submitted under a directive, is enforceable in the same manner and to the same extent as an